IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 232 OF 2004

IN

SECOND APPEAL NO. 91 OF 2004

SHRI VAMAN N.SHETTY ....Applicant

Versus

SHRI VASUDEV T.SAWANT AMONKAR ....Respondent

Miss. Shreya Naik, Advocate for the applicant.

Mr. A. F. Diniz, Advocate for the respondent.

Coram:- R. M. LODHA, J.

Date:- 23rd September, 2005

P.C.

Heard

Mr. A. F. Diniz, the learned Counsel for the respondent submits (one)that the appellant/applicant has been using the suit premises unauthorisedly for petroleum products; (two) that the licence fee has not been paid by the appellant/applicant for more than four years; and (three) that in case the Court is inclined to confirm the ad interim order, reasonable compensation during the pendency of the appeal be ordered.

The submissions are off the cuff as no reply has been filed to the civil application.

I am satisfied that the ad interim order passed by this Court on 8/10/2004 deserves to be made absolute in terms of prayer (a) until

disposal of the second appeal subject to the following conditions :

(1) That the appellant/applicant pays the entire arrears of licence fee @ Rs.400/- per month upto 31st August, 2005 to the respodnent by Bankers Cheque or Demand Draft within 15 days from today.

(2) That the appellant/applicant continues to pay monthly licence fee @ Rs.400/- per month for the month of September, 2005 and subsequent months on or before 15th of subsequent English calendar month. The monthly payment shall be made by the appellant/applicant by way of Bankers Cheque or Demand Draft.

(3) That an undertaking is filed by the appellant/applicant before this Court within two weeks from today that in the event of the second appeal being dismissed by this Court, the appellant shall hand over peaceful, vacant possession of the subject-premises to the respondent within one month of the Judgment of this Court. In the undertaking, the appellant shall also undertake that he would not sublet, assign or part with the possession of the subject-premises to any one nor shall do any material alteration in the premises.

(4) In default of payment of arrears within the time aforedirected or two consecutive defaults in payment of the monthly licence fee, the interim order shall stand discharged automatically without reference to the Court.

The civil application stands disposed of.

R. M. LODHA, J.

ssm.